

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RYANAIR DAC,

*Plaintiff/
Counterclaim Defendant,*

v.

BOOKING HOLDINGS INC.,
BOOKING.COM B.V., KAYAK SOFTWARE
CORPORATION, PRICELINE.COM LLC,
and AGODA COMPANY PTE. LTD.,

Defendants,

BOOKING.COM B.V.,

Counterclaim Plaintiff.

C.A. No. 1:20-cv-01191-WBC

**PUBLIC VERSION –
CONFIDENTIAL MATERIAL OMITTED**

**JOINT SUBMISSION RE PARTIES' REMAINING EXHIBIT AND DEPOSITION
DESIGNATION DISPUTES IN ADVANCE OF JULY 5, 2024 HEARING**

Plaintiff Ryanair DAC (“Ryanair”) and Defendants Booking.com B.V. (“Booking.com”) and KAYAK Software Corporation (“KAYAK”) (“Defendants”) (collectively, “Parties”) hereby jointly submit the following list of remaining disputes regarding exhibits and deposition designations to aid the Court in reviewing such disputes. The Parties continued to narrow the list of disputes and the list below reflects further updates to the Parties’ submissions from what was submitted on July 1, 2024 with the [Proposed] Final Pretrial Order. The remaining disputes have been categorized into groups to expedite and assist in the Court’s assessment. There are presently fourteen categories of exhibits and deposition designations that remain in dispute.

Exhibit Disputes¹

Defendants’ Objections to Plaintiffs’ Proposed Trial Exhibits

1. Individual Emails and Attachments
 - PTX-016 (R, NSW, A, F)
 - PTX-024 (R)
 - PTX-039 (R, NSW, A, H)
2. Emails and Attachments Regarding Scraping
 - PTX-011 (R, H, NSW, A, F)
 - PTX-014 (R, H, NSW, A, F)
 - PTX-015 (R, H, NSW, A, F)
3. Ryanair Terms of Use and Ryanair DAC Conditions of Carriage
 - PTX-054 (R)
 - PTX-087 (H,R)
 - PTX-134 (R, H, A)
 - PTX-135 (R, H, A)
4. Defendants’ Expert Timothy O’Neil-Dunne Blog Posts
 - PTX-082 (A, R)
 - PTX-083 (A, R)
 - PTX-084 (A, R)
5. Ryanair Customer Service Interactions
 - PTX-093 (H, NSW, A, F)

¹ The reference key for objection abbreviations is below.

- PTX-094 (H, NSW, A, F)
- PTX-100 (H, NSW, A, F)
- PTX-101 (H, NSW, A, F)
- PTX-102 (H, NSW, A, F)

6. Cease and Desist Letters

- PTX-001 (R, F, A, NSW)
- PTX-002 (R, F, A, NSW)
- PTX-161 (R, P, H, F, A)
- PTX-162 (R, F, A, H, NSW)
- PTX-163 (R, F, A, H, NSW)

Plaintiffs' Objections to Defendants' Proposed Trial Exhibits.

1. Individual Emails and Attachments

- DTX-204 (R, P)
- DTX-229 (NSW, K, H)
- DTX-231 (NSW, K, H)
- DTX-230 (R, P)
- DTX-233 (R,P)
- DTX-246 (R, P, S)

2. Ryanair's Expert Iain Lopata's Test B Emails

- DTX-270 through DTX-273 (R)

3. Statements in Counterclaims and Customer Service Interactions

- DTX-274 (R, P)
- DTX-245 (R, D)
- DTX-262 (R, P)
- DTX-269 (R,P)
- DTX-276 through DTX-420 (R, H, P, AU, NSW, D, X, K)

Deposition Designation Disputes

Defendants' Objections to Plaintiffs' Deposition Designations

1. Testimony Regarding Disputed Exhibits PTX-14 and PTX-15

- Witness: Anne Housseau
 - 65:24-66:1 (H, F)
 - 66:16-18 (H, F)
 - 67:1-8 (H, F, K)
 - 67:17-68:8 (H, F, K)
 - 70:22-25 (H, F, K)
 - 71:6-8 (H, F, K)
 - 71:14-72:13 (H, F, K, I)

- 72:18-22 (H, F, A, K)
 - 74:1-25 (H, F)
 - 75:2-76:25 (H, V, K)
 - 77:2-8 (V)
 - 79:9-80:8 (H, V, A, M)
2. Testimony Regarding Disputed Exhibit PTX-11
 - Witness: Anne Housseau
 - 56:5-61:20 (H, F, K)
 3. Testimony about Ryanair's difficulty with refunds during COVID.
 - Witness: Michael O'Leary
 - 73:2-24 (H, S)
 - 75:8-76:13

Plaintiff's Objections to Defendants' Designations

1. Statements Related to Counterclaims
 - Aine Murphy
 - 83:8 - 83:19 (R)
 - 83:23 - 84:16 (R)
 - 85:3 - 85:23 (R)
2. OTA Business Strategy
 - Michael O'Leary
 - 87:21 - 88:18 (R, M, F, P)
 - 88:19 - 88:20 (R, M, F, P)
 - 88:22 - 89:3 (R, M, F, P)
 - 89:5 - 89:5 (F, R, P)
 - 89:7 - 89:14 (F, R, P)
 - 89:16 - 89:24 (F, R, P)
 - 90:1 - 90:1 (F, R, P)
 - 92:17 - 92:18 (F, R, P)
 - 92:20 - 92:20 (F, R, P)
3. Booking.com Bookings
 - Aine Murphy
 - 164:8 - 166:15 (NSW, K, H, S)
 - 168:8 - 169:15 (NSW, K, H, S)

ABBREVIATION AND FEDERAL RULES OF EVIDENCE KEY TO THE OBJECTIONS

Code	Objection
A	Argumentative
AT	Attorney objections not removed
AU	Authenticity or Identification (FRE 901)
B	Violates Best Evidence Rule (FRE 1002-1004)
C	Compound
D	Duplicative/Cumulative
F	Lack of Foundation (FRE 602)
H	Hearsay/Improper Use of Deposition (FRE 801-802; FRCP 32)
I	Improper/Incomplete Designation (FRE 106; FRCP 32(a)(6))
IC	Improper Counter-Designation (FRE 106; FRCP 32(a)(6))
ID	Improper Designation of a Witness To Be Called Live (FRCP 32)
IO	Improper Lay or Expert Opinion (FRE 701-703)
K	Lack of Personal Knowledge/Incompetent (FRE 602)
L	Leading Objection in Redirects
LC	Improper Legal Conclusion (FRE 403)
M	Misleading/Mischaracterizes Prior Testimony
MD	Mischaracterizes Underlying Document (FRE 401-403)
N	Not previously produced, lacks production numbers, or illegible
NE	Assumes Facts Not In Evidence (FRE 103)
NR	Nonresponsive
NSW	No Sponsoring Witness
OS	Oversized document in terms of page length, rendering meaningful objections impossible until Defendant knows the purpose for which the document is being offered
P	Prejudice/Confusion/Delay/Waste of Time (FRE 403)
R	Relevance (FRE 401/402)
RRW	Writing or recorded statement cannot be introduced without other writing or recorded statement (FRE 106)
S	Calls for Speculation (FRE 602)
SC	Beyond the Scope of the Witness's Testimony as a Corporate Representative
U	Improper Use Against Other Parties or For Other Purposes (FRE 105)
V	Vague/Ambiguous/Overbroad
X	Incomplete Document (FRE 106)
Y	Wrong Document or Incorrectly Described
Z	Reserved Because Exhibit Has Not Been Provided, the Copy Provided is Illegible, and/or the Entry Includes Multiple Documents

Dated: July 5, 2024

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